



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/171005

PRELIMINARY RECITALS

Pursuant to a petition filed December 23, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a telephone hearing was held on January 26, 2016. The record was held open following hearing to allow petitioner to submit additional documentation. That documentation was timely received.

The issue for determination is whether the respondent correctly denied petitioner’s request for moving expenses.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Bureau of Long-Term Support
1 West Wilson
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner receives services through IRIS, an MA Waiver subprogram.

3. The petitioner owns a home with her ex-husband, and is planning to relocate elsewhere in the community.
4. Petitioner submitted a request that her moving expenses be covered under the IRIS program, but that request was denied by the respondent on December 21, 2015. Exhibit B2.
5. Petitioner appealed the moving expenses denial on December 23, 2015.

DISCUSSION

The petitioner has been deemed eligible for and presently receives services under IRIS, which stands for Include, Respect I Self-Direct. This program is a fee-for-service alternative to Family Care, PACE or Partnership for individuals requesting a long-term care support program in Family Care counties. *Medicaid Eligibility Handbook*, § 37.1.1. She presently resides in a home that she owns with her ex-husband.

Petitioner requested moving expenses in the amount of \$792.50. The respondent, in a letter dated December 21, 2015, denied the request for moving expenses because it contends that federal regulations bar paying for moving expenses aside from Supportive Home Care Household Services, which may be utilized to assist with packing, unpacking, and household cleaning and organizing.

The Medicaid.gov website states:

The 1915(c) waivers are one of many options available to states to allow the provision of long term care services in home and community based settings under the Medicaid Program. States can offer a variety of services under an HCBS Waiver program. Programs can provide a combination of standard medical services and non-medical services. Standard services include but are not limited to: case management (i.e. supports and service coordination), homemaker, home health aide, personal care, adult day health services, habilitation (both day and residential), and respite care. States can also propose "other" types of services that may assist in diverting and/or transitioning individuals from institutional settings into their homes and community.

The respondent cites IRIS policy, which provides that:

Allowable Services

The DHS, through the authority of the 1915(c) HCBS waiver, defines "Allowable Services" as those services identified and defined in Appendix C (C-1) of the waiver. The DHS provides further descriptions of allowable services in the IRIS Service Code and Definition Manual. Services, supports or goods identifying IRIS as the funding source on the ISSP not identified and defined in Appendix C of the approved 1915(c) HXVA waiver are prohibited. All other services, supports or goods needed or desired by an IRIS participant require an alternative funding source. Allowable services, identified and defined in Appendix C of the current approved 1915(c) HCBS waiver include: ...
Relocation – housing start-up and related utility. ...

IRIS Policy Manual, §5.4A.

IRIS Policy defines Relocation – Housing Start-up and Related Utility costs as follows:

...Relocation-related services include the provision of service and essential items needed to establish a community living arrangement for person relocating from an institution, a residential setting, or for people moving out of a home controlled by another individual, with intent to establish an independent living arrangement. ...

IRIS Service Definition Manual, p. 10.

The respondent contends that, since petitioner already resides in the community in a home that she owns, she cannot qualify as one who is “establishing” an independent living arrangement.

The petitioner spoke persuasively about the vague language regarding approvable moving expenses, and argued that, since her home is “underwater” financially and it is still co-owned with her ex-husband, she qualifies as one “moving out of a home controlled by another individual.” She also asserts that establishing an independent living arrangement does not equate to establishing such arrangements for the first time. However, while I agree that the policy language leaves much to be desired as far as specificity is concerned, I cannot ignore the fact that the allowable services list references “Relocation – *housing start-up* and related utility. The Policy definitions reiterate that title, again referencing “*housing start-up.*” I must follow medical assistance rules as they are written. A logical reading of the policy language and definition read together would indicate that “start-up” and “establishing” could essentially be used interchangeably in the referenced provisions. To read “establish” as equating to almost any move to another community location would not be reasonable. Applying such a broad scope to the meaning of “establishing” would render the policy overly broad and result in an absurd working application.

I find the respondent’s position here reasonable and in accordance with IRIS policy and the waiver language. I must uphold the denial.

CONCLUSIONS OF LAW

The respondent correctly denied funds for petitioner’s moving expenses, as such moving expenses are not permitted under present IRIS policy.

THEREFORE, it is

ORDERED

That the petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 28th day of March, 2016

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 28, 2016.

Bureau of Long-Term Support